

*sd CERS*  
*San Diego City Employees'*  
*Retirement System*

TO: Donna Frye, Chair  
Government Efficiency & Openness Committee;  
Councilmember Toni Atkins; Councilmember Brian Maienschein

FROM: Diann Shipione, SDCERS Trustee

DATE: February 10, 2005

RE: **Response To City of San Diego Memorandum dated 2/4/05 RE: San Diego City Employees' Retirement System procedures to stop pension payments to deceased City retirees**

**Executive Summary**

Since at least 1988<sup>1</sup>, SDCERS has been making monthly pension payments to deceased beneficiaries, not just for a few months, but also for years after these people have passed away.

Not surprisingly, no one at the Retirement System or the City Auditor's Office has ever provided a comprehensive written report as to how many people have been overpaid, how much money was involved, if the checks were cashed, who cashed them, if there was evidence of fraud and if any of the money was recovered. I know of none sent to the DA for prosecution.

"Secret" lists of over 200 names of deceased beneficiaries that may have received pension payments after their death were found in boxes seized by the City Attorney from the City office of SDCERS Trustee and acting City Auditor Terri Webster. These lists were attached to two reports, one dated October 3, 2000 and the other dated March 2, 2002. The dates of death span 13 years, from 1988 to 2001. Yet, even in 2000 and 2001, it was not known how much money was overpaid, how long the overpayments occurred, and if any of the money was recovered for over 189 people on these lists! And, these lists do not contain all of the deceased people that were overpaid - just some of them.

Apparently, certain SDCERS staff, City Auditor staff, City Attorney staff and other SDCERS Trustees were very aware of these lists, including Retirement Administrator Lawrence Grissom. My requests in 2003 for this information were denied. I was not able to review these lists until this year after the City Attorney discovered them in Ms. Webster's boxes.

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<sup>1</sup> Office of City Auditor, Audit Report, Subject: Retiree Death Match, October 3, 2000, Page 2, See Table 1, Unrecovered overpayment of \$6,063 to retiree that passed away on 8/22/88.

It is my recommendation that your committee request that the new City Auditor conduct a review of, at least, these 200+ names to determine if improper payments were made; if there was evidence of fraud; and if adequate controls were in place at the time to prevent improper payments.

### Response to Statements Made In The City of San Diego's 2/4/05 Memorandum

The February 4, 2005 response from SDCERS to your committee's request for additional information leaves many important questions unanswered. In particular, below are a few statements made in the memorandum that I would like to address:

THE FEB. 4, 2005 CITY OF SAN DIEGO REPORT DOES NOT MENTION THAT THE "NOTIFICATION PROCESS" (WHICH IS THE PRIMARY METHOD USED BY SDCERS) CREATES A CLIMATE THAT FACILITATES FRAUD

*"Overpayments may occur as a result of the timing of a retiree's death in relation to when pension payments are scheduled to be made, or when a retiree's family does not make a timely notification of death to the institution. Many retirees live in other cities, states and countries and timely notification may not happen...The primary method used by SDCERS staff to stop payments to deceased retirees is the Notification Process. Notification by a Family member or Friend...by Health Care Provider...by Auditor's Office...by Obituaries...by Unions or Employers...."*

– From the Feb. 4, 2005 City of San Diego Report

It is simply inadequate for SDCERS to have relied for decades primarily upon "notification" by third parties to determine if someone is deceased. This process does not work. That is why quarterly, or at least semiannual, "death match audits" are so important.

A 2002 audit of the City of Philadelphia's pension system revealed that as much as \$2 million in improper payments may have been made to 119 deceased beneficiaries because the retirement system *"relied primarily on notification"*. In that report Controller Jonathan A. Saidel wrote:

*"The following characteristics of the pension system create a climate that facilitates **fraud and improper payment**...The Board of Pensions and Retirement **relied primarily on notification** by the city's Personnel Department and other third parties to identify deceased pensioners. (The Personnel Department processes life insurance claims.) Thus, if someone did not voluntarily terminate benefits or claim insurance proceeds, payments continue uninterrupted."<sup>2</sup>*

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<sup>2</sup> *Review of Pension Payments To Deceased Beneficiaries*, Office of the Controller, City of Philadelphia Pennsylvania, Jonathan A. Saidel, City Controller, July 2002, p5.

THE FEB. 4, 2005 CITY OF SAN DIEGO REPORT DOES NOT RESPOND AT ALL  
TO SDCERS & CITY AUDITOR'S FALSE CLAIMS RE AUDIT WAS PERFORMED  
ANNUALLY

At the November 21, 2003, SDCERS Board meeting Retirement Administrator Lawrence Grissom, SDCERS General Counsel Loraine Chapin, SDCERS Trustees Ron Saathoff and Terri Webster **insisted** that "annual death match" audits had been performed **every** year for many years ("*for as long as I can remember*" according to Trustee Saathoff); **and** that the corresponding annual reports were included in SDCERS Board binders **every year**.

In a February 1, 2005 *San Diego Union Tribune* article, Mr. Grissom implied that quarterly audits were the norm stating, "Names of retirees are checked against a Social Security database for the recently deceased, and *"three or four in a quarterly report is a normal number."*

In a February 1, 2005 in a memo to Council Member Frye, SDCERS Trustee Sharon Wilkinson wrote that annual death match audits were performed:

*"Dianne's (sic) statement about hundreds of dead people receiving retirement checks was a total fabrication and she knows it...THE BOARD IS GIVEN AT LEAST ANNUAL REPORTS ON "DEATH-MATCH" AUDIT RESULTS SO SHE HAS KNOWN SINCE HER FIRST YEAR ON THE BOARD."* (Capitalization in the original.)

We now know that **these comments are not correct**. But, it is understandable **why** they were made. At the time they were publicly made, no one knew that I had recently seen the secret, hidden documents that proved annual audits were **not** performed, including the hundreds of names and dates of death for people who may have received pension checks for years after they passed away.

After learning I had seen these documents, Mr. Grissom **reversed his position** and admitted, in a February 4, 2005 *San Diego Union Tribune* article, that **about 200** people **had** been overpaid and that annual death match audits "**were deemed unnecessary**" for a span of at least four years from 1996 to 2000<sup>3</sup>.

THE FEB. 4, 2005 CITY OF SAN DIEGO REPORT CONTAINS NO INFORMATION  
ABOUT SDCERS & CITY AUDITOR'S INTENTIONAL WITHHOLDING OF  
MATERIAL INFORMATION

All of my past efforts to review death match data were consistently blocked by SDCERS and the City Auditor's Department. After the November 2003 SDCERS Board meeting, during which I raised many questions regarding this issue, I asked to see the results of the supposedly "annual death match audits" that Grissom, Chapin, Webster and Saathoff **insisted** had been performed. Mr. Grissom said he could not show them to me at that

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<sup>3</sup> Union Tribune Article by Jonathan Heller, 2/4/05.

time but that he would get them to me. By December 5, 2003 I had received no information so I went to the Retirement System offices to review the audits. Mr. Grissom was not there (senior management has rarely ever been in the office any of the times I just stopped by.) SDCERS then Board Secretary Sally Zumalt told me the files were **not** at the Retirement System but rather were at the City Auditor's office. I asked to see the procedure manual used to process deceased beneficiary data and was told there was no procedure manual. I asked what procedures were used and was told, "*We read the obituaries everyday.*"

That same day I went to the City Auditor's office and asked to speak with then City Auditor Ed Ryan. I was told he was in a meeting and that Assistant Auditor Terri Webster would see me. Ms. Webster would not allow me to review the files. She said I would have to make a request under the Freedom of Information Act and that I would receive the materials in 10 business days. I sent a written request to Mr. Ryan later that day.

Instead, on December 15, 2003, I received a copy of a Memorandum from Deputy City Attorney Lisa Foster to Principal Accountant in the Auditor's Office Kyle Elser that stated:

*"I have examined the files in question, from 1996 and 2001, and have determined that the final audit reports from each of these audits should be provided, but not the underlying documentation...I spoke with staff in the General Counsel's Office for the Retirement System, and was informed that this request is being made by Ms. Shipione in her individual capacity." (Emphasis added.)*

My request was **not** made as "an individual"; it was made as a **Trustee** for the Retirement Trust. More importantly, the underlying documentation was what I wanted to see because it was essential to confirm how many people had been over paid, for how long, who cashed the checks, was there evidence of fraud, was any money recovered, and so forth.

We now know **why all this secrecy was necessary**. These audits were **not** performed annually. In fact, only three death match audits were performed over a 15-year period (one in 1996, one in 2000 and one in 2001)<sup>4</sup>.

THE FEB. 4, 2005 CITY OF SAN DIEGO REPORT CONTAINS NO INFORMATION  
ABOUT THE LACK OF PROCEDURES OR INTERNAL CONTROLS PRIOR TO  
NOVEMBER 2003

There is no response at all in the 2/4/05 SDCERS Report of the procedures in place prior to November 2003.

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<sup>4</sup> The 2/4/05 SDCERS Memo To GEOC references audits done prior to 1996, however there is no written evidence of them. There is also no report from the 1996 audit.

In fact, there is **no** evidence of **established controls to prevent fraud** and protect pension assets, such as performing quarterly death audits (until after 11/03); obtaining death certificates (some people on the list of 200 did not even have a death certificate on file even though they passed away 7 years ago!); pursuing the return of erroneous payments, reviewing outstanding check listings; and investigating returned checks. In a recent "Best Practice Review" Mercer noted why SDCERS' procedures for returned benefit checks might lead to errors, delays or other problems:

*"Returned benefits checks...are received numerous ways and by multiple people with the System. This causes delays and opportunities for errors. All forms/checks/collections should be returned to a central location where they can be opened and imaged. Checks should be immediately deposited into a general account."*<sup>5</sup>

There is **no** evidence of **any procedure manual** in place that required SDCERS to aggressively pursue the recovery of improper payments (certainly not before 2004).

There is **no** indication that SDCERS attempted to ensure the **accuracy of its database**. There are no reports confirming that information related to birth dates, social security numbers, names, etc. were accurate. In fact, even with the limited data available from the audits done in 2000 and 2001, there are alarming irregularities (beyond the fact that Staff claims they still did not know how much had been overpaid to people who passed away years, if not decades ago, or if any of the funds were recovered). Some examples of inaccuracies and irregularities:

- People had incorrect social security numbers:
  - 1 had the social security of someone who died in 1980,
  - 1 had the social security number of someone who died in 1990,
  - 5 had social security numbers of a deceased "benefactor", and
  - 4 had social security numbers that were different from either the death certificate in the file or from that of the widow!
- People that should have shown up in the 1996 audit did not show up until the 2000 audit. This doesn't make sense given they died long before 1996.
- People that should have shown up in the 2000 audit did not show up until the 2001 audit. This doesn't make sense since they died long before 2000.
- People incorrectly had their beneficiary's names on the account.
- People were in the system twice and may have received 2 pension checks each month.
- Death certificates were missing from files.

**THE FEB. 4, 2005 CITY OF SAN DIEGO REPORT IMPLIES ONLY 9 PEOPLE HAVE BEEN OVERPAID; BUT, IT MAKES NO MENTION OF HOW MANY PEOPLE HAVE BEEN OVER PAID SINCE 1990, 1995, OR EVEN THE YEAR 2000**

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<sup>5</sup> See "Best Practices Reviews: San Diego City Employees' Retirement System", Organizational Effectiveness Review, page 8, Mercer, Oct. 18, 2004.

***“Our records show as of today, there are 9 individuals...who received pension payments after their death.”*** – From the Feb. 4, 2005 City of San Diego Report

*“As of today”* (February 4, 2005); but what about for the past year, two years, five years, or ten years? How many people have been overpaid since 1990? How many millions of dollars were overpaid? How much of that was ever recovered? What about the list of 200 people hidden in Trustee Webster’s boxes? How much were they overpaid and for how long? Were the checks cashed? Who cashed them? Where are copies of the front and back of the checks? And, was any of the money recovered? Were any of these referred to the DA for prosecution (In Philadelphia they are all referred to the DA for prosecution)? According to the 2 audit reports ***only one*** person out of 200+ had any money recovered but no dollar amount disclosed. And, only four others out of 200+ even had overpayments calculated!

THE FEB. 4, 2005 CITY OF SAN DIEGO REPORT DOES NOT DISCLOSE THAT ONLY 3 DEATH MATCH AUDITS WERE PERFORMED OVER 14+ YEARS FROM AT LEAST 1990 TO NOVEMBER 2003

***“The second method is to electronically compare SDCERS retirees’ data with data from the Social Security Department. This provides additional controls in case the primary methods are unsuccessful.”*** – From the Feb. 4, 2005 City of San Diego Report

As stated earlier, these death match audits were *not* performed annually. **Only 3** were performed from 1990 to essentially 2004. That’s almost 15 years. And the question remains as to why these audits were not performed on a regular basis? And why did Staff and several Trustees, including the acting City Auditor, state otherwise? And why was the fact these audits had not been performed every year hidden?

#### **RECOMMENDATION:**

**REQUEST THE NEW CITY AUDITOR CONDUCT A REVIEW OF PENSION AND SURVIVORSHIP PAYMENTS MADE TO AT LEAST THE 200+ INDIVIDUALS WHOSE NAMES ARE CONTAINED ON THE LISTS IN TRUSTEE WEBSTER’S DOCUMENTS TO DETERMINE IF:**

- **SDCERS made improper pension and survivorship payments.**
- **There was evidence of fraud.**
- **Adequate controls were in place to prevent improper pension and survivorship payments from 1990-2005.**

The scope of this review, at least initially, could be based on the lists found in Webster’s boxes of over 200 pension beneficiaries who appeared to be deceased. It could include interviews with management and staff and others having knowledge and understanding of the pension payment system; contact with other cities to learn about their policies and procedures for identifying deceased beneficiaries and recovering unauthorized payments; selection of a sample of benefit recipients and review of their pension files and other

records for accuracy and possible indicators of fraud; the engagement of pension benefit consultation where necessary; and death certificates from the appropriate State agency to verify death information already provided. This review should be performed in accordance with Generally Accepted Government Auditing Standards.

Any evidence of significant fraud on the part of individuals who have knowingly cashed checks or failed to return money could be referred to the District Attorney for criminal investigation.

Finally, **this issue is just an example** of the systemic mismanagement that exists at the retirement system. **It is not close to being the biggest problem.** But it does reflect the serious issue that nobody in this system does the day-to-day work. The Board and senior management are all so busy figuring out how to game the system and create an image of solvency when they know its insolvent that there's nobody doing the work to protect the system's money.

An August 13, 1999 email from Terri Webster to Bruce Herring and Connie Jamison now appears prophetic:

***"It seems a lot of time is spent on personal agendas instead of focusing on the basic operations and controls of running a large public trust fund and improving customer service...Someday this mess will end up in the media. The City should really get control of the Board before it becomes a PUBLIC embarrassment."***